

Approved:

St. Val

Steven J. Kochevar
Assistant United States Attorney

Before: THE HONORABLE ANDREW E. KRAUSE
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA : COMPLAINT
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: Violations of 18 U.S.C.
-v- : §§ 2252A(a)(1),
: (a)(2)(B), and (b)(1)
PAWEL BAK, :
: COUNTY OF OFFENSE:
Defendant. : Westchester
:
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SOUTHERN DISTRICT OF NEW YORK, ss.:

KEVIN M. GONYO, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE

(Receipt and Distribution of Child Pornography)

1. On or about November 14, 2021, in the Southern District of New York and elsewhere, PAWEL BAK, the defendant, knowingly received and distributed, using means and facilities of interstate and foreign commerce, material containing child pornography that had been mailed, and using means and facilities of interstate and foreign commerce shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, BAK, while in Westchester County, New York, sent child pornography images through Facebook to an individual in Poland whom he believed to be a minor child.

(Title 18, United States Code, Sections 2252A(a)(1), (a)(2)(B) and (b)(1).)

COUNT TWO

(Receipt and Distribution of Child Pornography)

2. On or about November 17, 2021, in the Southern District of New York and elsewhere, PAWEL BAK, the defendant, knowingly received and distributed, using means and facilities of interstate and foreign commerce, material containing child pornography that had been mailed, and using means and facilities of interstate and foreign commerce shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, BAK, while in Westchester County, New York, sent child pornography images through Facebook to an individual in Poland whom he believed to be a minor child.

(Title 18, United States Code, Sections 2252A(a)(1), (a)(2)(B) and (b)(1).)

The bases for my knowledge and for the foregoing charges are as follows:

3. I have participated in investigations involving the sexual exploitation of children, in violation of Title 18, United States Code, Sections 2252A and 2422(b), among other offenses. I have gained expertise in the conduct of such investigations through, among other things, training in seminars, classes, and everyday work related to conducting these types of investigations.

4. I have been personally involved in the investigation of this matter, and I am familiar with the information contained in this Complaint based on my own personal participation in the investigation, my review of documents, conversations I have had with individuals and other law enforcement agents about this matter, my training and experience, and numerous discussions I have had with other law enforcement personnel concerning the creation, distribution, and proliferation of child pornography. Because this Complaint is being submitted for the limited purpose of establishing probable cause to arrest the defendant, I have not included the details of every aspect of the investigation. Where actions, conversations, and statements of others are related herein, they are related in substance and in part, except where otherwise indicated.

Definitions

5. The following terms have the indicated meaning in this Complaint:

a. The terms "minor," "sexually explicit conduct," and "visual depiction," as used herein, are defined as set forth in Title 18, United States Code, Section 2256.

b. The term "child pornography," as used herein, is a visual depiction of a minor involved in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(8).

c. "Computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device. See 18 U.S.C. § 1030(e)(1).

Technical Background

6. Based on my training, experience, and information related to me by other law enforcement agents, I know the following:

a. An Internet Protocol ("IP") address is a unique numeric address used to identify a particular computer connected to the Internet. An IP address looks like a series of numbers separated by periods. Every computer connected to the Internet must be assigned an IP address so that communications from or directed to that computer are routed properly.

b. The Internet is a global network of computers and other devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when devices communicating with each other are in the same state.

c. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

d. WhatsApp is a United States company that provides an Internet-based multimedia messaging service, WhatsApp Messenger, via a cross-platform smartphone application that permits users to send and receive messages and calls.

The Investigation

7. From December 2021 through January 2022, the FBI received information from a non-law enforcement organization based in Poland that investigates possible child sex abuse online (the "Recipient Organization") concerning communications in Polish on Facebook and WhatsApp between individuals affiliated with the Recipient Organization (the "Recipients") and the user of a Facebook account ("User-1"). Based on my conversations with individuals affiliated with the Recipient Organization and my review of English translations or descriptions of the communications between User-1 and the Recipients, including translations and descriptions prepared by an employee of the FBI, I am aware that the communications between User-1 and the recipients reveal the following:

a. On or about November 17, 2021, User-1 sent one of the Recipients ("Recipient-1") a series of audio files in Polish, two images of child pornography ("Image-1" and "Image-2," collectively, the "Images"), and a series of written messages in Polish. Recipient-1 responded with written messages in Polish. I have reviewed the Images, English descriptions of the contents of the audio files prepared by a translator employed by the FBI who speaks Polish (the "Translator"), and a written English translation of the written messages prepared by the Translator.¹ Based on my review of these materials, I know the following:

i. The Translator described the contents, in sum and substance, of a 41-second audio file with filename audioclip163718042100035504_1806470386409405.Emp, sent from User-1 to Recipient-1 on or about November 17, 2021, as follows: User-1 talks about

¹ Based on the Translator's description of the contents of a 50-second audio file with filename audioclip163830833700050597_2020791308079354.Emp4 sent from User-1 to Recipient-1 on or about November 30, 2021, I am aware that User-1 stated in that audio file that he believed Recipient-1 would be about 13.5 years old around May or June. My understanding is that User-1 meant May or June 2022.

what some young girls do. He claims that he has never been with a young girl before, but adds that he would like to be with one. User-1 confirms that he has been with mature women and they kissed it. He offers to send Recipient-1 a picture showing a very young girl kissing a man's penis. He says that is what he would like to receive from an obedient girl.

- ii. User-1 then sent the Images to Recipient-1 through Facebook. I have reviewed the Images. Image-1 depicts a female child engaged in sexual activity with an adult male. Specifically, Image-1 depicts what appears to be a pre-pubescent female child with an adult penis in her mouth. Image-2 depicts what appears to be a pre-pubescent female child with her head next to an erect adult penis. The female child appears to be placing her mouth on the abdomen of the adult male in Image-2. From my communications with the Recipient Organization, I know that, at the time User-1 sent the Images to Recipient-1, Recipient-1 was in Poland.
- iii. The Translator described the contents, in sum and substance, of a 35-second audio file with filename audioclip163718042100035504_1806470386409405.Emp4, sent from User-1 to Recipient-1 on or about November 17, 2021, as follows: User-1 refers to the Images and states the Images are examples of good girls pleasing men in exchange for gifts. He states he would like to get the same thing from a young girl and even from a very young one. User-1 states he is interested in Recipient-1. He states that legally Recipient-1 cannot do it; she can do it only if she does not tell anyone about it.
- iv. Recipient-1 responded in Polish in a written message: *I didn't know that little girls did that why didn't I know that.*²

² Throughout this Complaint, text translated from Polish to English is italicized. The translations were prepared by an employee of the FBI. They are preliminary translations and translate the sum and substance of the meaning of the words in Polish.

- v. The Translator described the contents, in sum and substance, of a 54-second audio file with filename audioclip163718053700054498_627777148582863.Emp4, sent from User-1 to Recipient-1 on or about November 17, 2021, as follows: User-1 says men are more interested in this topic than girls are. Per User-1, men do not talk about it; they and the girls keep it to themselves. He says he is looking for a teenage girl and even someone younger. He states men reward girls for kissing their penises, touching, and hugging. User-1 says he would like to reward Recipient-1 and take her shopping. He claims that all of this depends on whether Recipient-1 will be obedient and well behaved when they meet.
- vi. User-1 and Recipient-1 then exchanged the following messages in Polish:

User-1: *You there?*

Recipient-1: *Yes I was listening to what you said*

Recipient-1: *on my headphones*

Recipient-1: *because my mom came out of the bathroom*

User-1: *I understand.*

Recipient-1: *I wont tell anyone that we are writing to each other*

Recipient-1: *because if you say that its not allowed then I wont tell*

User-1: *It makes me happy that you wont tell anyone*

User-1: *Good girl*

Recipient-1: *If your friend sent you these photos and told you then can I tell [an individual represented to be Recipient-1's sister] or no?*

User-1: *You can't tell [the individual represented to be Recipient-1's sister] or anyone*

Recipient-1: *oh ok then I wont tell*

User-1: *Not my friend I don't know him. I was writing with a couple of guys talking about women and someone was asking about little girls and he heard that I wanted to and he said that he knows because he has a little girl who he meets and she makes him happy and he buys her different things and asked if I wanted to see photos so he sent them*

b. On or about November 14, 2021, User-1 sent the Images to a different Recipient ("Recipient-2"). From my communications with the Recipient Organization, I know that, at the time User-1 sent the Images to Recipient-2, Recipient-2 was in Poland.³

c. Based on my review of a transcript of an exchange between User-1 and Recipient-2 and a partial translation of this transcript performed by a translator employed by the FBI, User-1 and Recipient-2 exchanged the following messages on or about November 15, 2021, in Polish:

User-1: *I see that you keep forgetting to make me naked pictures when you are in the bathroom.*

Recipient-2: *Well yes.*

User-1: *Exactly. When will you be good and do what I tell you? And when will take naked pictures of yourself for me?*

User-1: *Send me some voice message.*

User-1: *???*

Recipient-2: *I can do it tomorrow.*

Recipient-2: *?*

³ Based on my review of a transcript of an exchange between User-1 and Recipient-2 and a partial translation of this transcript performed by a translator employed by the FBI, on or about November 14, 2021, Recipient-2 wrote the following messages to User-1 in Polish: *I'm still 12 now. and I'll be 13 in December.*

Recipient-2: *Because I'm on my laptop.*

User-1: *You can do it tomorrow but 100 percent. If you won't take naked pictures of yourself, I'll be furious.*

8. Based on records from Facebook, I know that the account used to send the Images to Recipient-1 and Recipient-2 (the "Account") is associated with url <http://facebook.com/pawel.bak.75>, registered in the name "Pawel Bak," and is associated with a phone number ending in 6812 (the "Phone Number"). Based on records obtained from AT&T, the Phone Number is associated with the name Pawel Bak.

9. During his communications with Recipient-2, User-1 has sent images that he represented were images of himself (the "Self-Images"). Specifically, on or about November 15, 2021, User-1 and Recipient-2 exchanged the following messages in Polish:

Recipient-2: *Do you have any pictures of yourself?*

User-1: *Well, yes.*

Recipient-2: *Current ones?*

User-1: *I like to take pictures.*

Recipient-2: 😊

User-1: *I have them on my cell phone.*

Recipient-2: *Will you send them to me?*

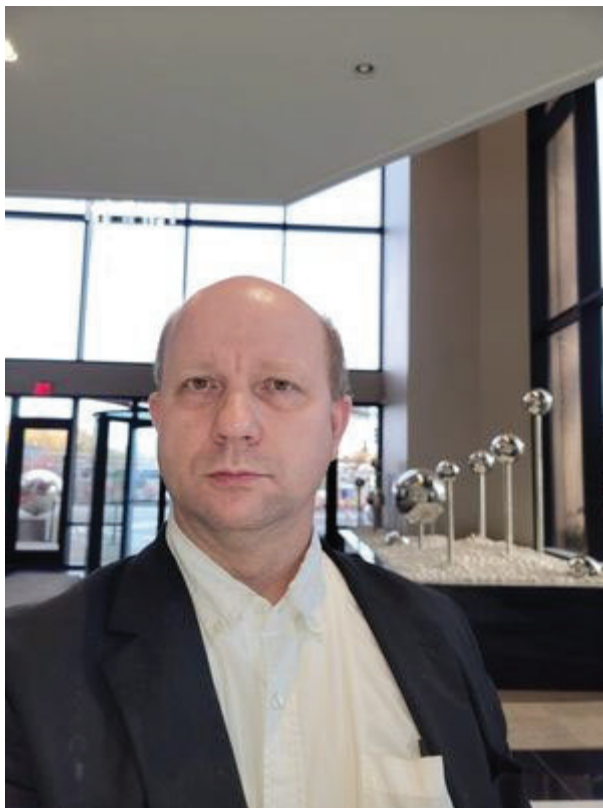
Recipient-2: *Well, but current ones.*

User-1: *Yes.*

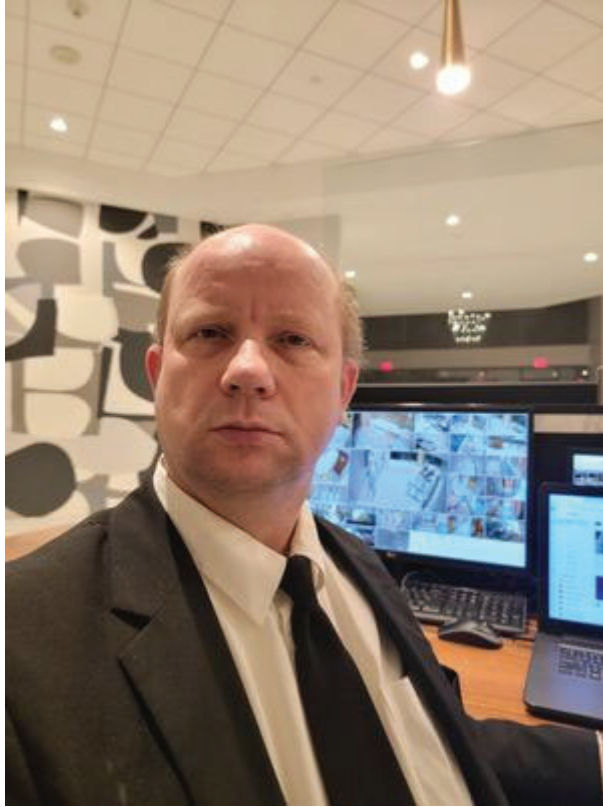
User-1 then sent Recipient-2 approximately seventeen Self-Images.

10. I know that the Self-Images depict PAWEŁ BAK, the defendant, because I have reviewed an image of BAK on his driver's license, obtained from the New York State Department of Motor Vehicles. I know from surveillance of BAK by law enforcement that he works at a building in White Plains, New York ("Building-1"). Some of the Self-Images appear to have been taken inside or nearby Building-1. For example, the following Self-Image, sent to

Recipient-1 on or about November 15, 2021, shows BAK and a sculpture located in Building-1:



The following Self-Image, sent to Recipient-1 on or about November 15, 2021, shows BAK and a wall painting located in Building-1:



The following Self-Image, sent to Recipient-1 on or about November 15, 2021, appears to show BAK outside Building-1:



11. Based on records received from Facebook, I identified the IP address used by User-1 on November 14, 2021, and November 17, 2021, when he sent the Images to Recipient-1 and Recipient-2 (the "IP Address"). Based on records from an internet service provider, the IP Address is associated with the address of Building-1 in White Plains, New York.

WHEREFORE, the deponent respectfully requests that PAWEL BAK, the defendant, be arrested and imprisoned or bailed, as the case may be.

/s/ Kevin M. Gonyo
(by AEK, with permission)

KEVIN M. GONYO
Special Agent
Federal Bureau of Investigation

Sworn to me through the transmission of this Complaint by reliable electronic means, pursuant to Federal Rule of Criminal Procedure 4.1, this 4th day of January, 2022 **[by FaceTime]**



THE HONORABLE ANDREW E. KRAUSE
United States Magistrate Judge
Southern District of New York